

App. No. 09/936012  
Office Action Dated October 20, 2004  
Amd. Dated January 14, 2005

### **REMARKS**

Reconsideration is respectfully requested in view of the above amendments and following remarks. Claim 34 has been canceled without prejudice or disclaimer. No new matter has been added. Claims 15-33 and 35-40 are pending.

#### **Claim rejections - 35 U.S.C. § 112**

Claim 34 is rejected under 35 U.S.C. 112, second paragraph as being indefinite. Applicants respectfully traverse the rejection. The rejection is rendered moot, as claim 34 has been canceled. Withdrawal and reconsideration is respectfully requested.

#### **Claim rejections - 35 U.S.C. § 103**

Claims 15-30 and 33-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Auguste et al. (US 6,051,748 or WO 98/10801) in view of Chen (US 5,633,010). Applicants respectfully traverse the rejection.

Masses comprising a mixture of polyisobutylene and a poly(styrene/olefin/styrene) block polymer and a cellulose derivative suffer a substantial loss of absorption capacity after radio sterilization. The present invention teaches an adhesive mass with improved resistance to deterioration of its absorption capacity after radio sterilization by the addition of an acrylate copolymer with a glass transition temperature below -20°C to a mixture of polyisobutylene, a poly(styrene/olefin/styrene) block polymer and a cellulose derivative. Thus, the loss of absorption capacity of such hydrocolloid adhesive masses after sterilization can be significantly reduced by the incorporation of an acrylate polymer with a glass transition temperature below -20°C.

Claim 15 is directed to a hydrocolloid adhesive mass for medical purposes. The hydrocolloid adhesive mass comprises a mixture of polyisobutylene, a

App. No. 09/936012  
Office Action Dated October 20, 2004  
Amd. Dated January 14, 2005

poly(styrene/olefin/styrene) block polymer, a cellulose derivative and an acrylate copolymer with a glass transition temperature below -20°C. The object of the present invention is to increase the resistance to deterioration of the absorption capacity of a hydrocolloid adhesive mass based on polyisobutylene and poly(styrene/olefin/styrene) block polymer after radiosterilization.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not the applicant's disclosure.

Auguste teaches a hydrophilic adhesive mass based on a poly(styrene/isoprene/styrene) copolymer, tackifier and acrylate polymer, plasticizer, hydrocolloid and at least one antioxidant. The acrylate polymer taught by Auguste is used for increasing the absorption capacity of a hydrocolloid adhesive mass based on a poly(styrene/olefin/styrene) block copolymer which does not comprise a polyisobutylene.

The Examiner asserts that it would have been obvious to one skilled in the art to utilize well known polyisobutylene of Chen as a tackifier in Auguste since Auguste teaches hydrocarbon resins as tackifiers and since polyisobutylene is the well known hydrocarbon tackifier absent showing otherwise. Applicants respectfully disagree with this assertion. Chen clearly indicates that such a tackifier is only usable in an adhesive mass based on a hydrophobic unsaturated aliphatic homopolymer which is not and cannot

App. No. 09/936012  
Office Action Dated October 20, 2004  
Amd. Dated January 14, 2005

be a copolymer of the poly(styrene/olefin/styrene) type used in the adhesive mass required by claim 15. Thus, there would be no motivation to combine Chen with Auguste as Chen limits the use of a polyisobutylene as a tackifying resin to an adhesive mass based on a hydrophobic unsaturated aliphatic homopolymer whereas Auguste teaches an adhesive mass based on a block copolymer which is clearly excluded from the definition of a hydrophobic unsaturated aliphatic homopolymer taught by Chen.

Furthermore, neither Auguste nor Chen address increasing resistance to deterioration of the absorption capacity of a hydrocolloid adhesive mass. Therefore, there would be no motivation to combine Auguste and Chen to obtain to claimed invention. That is, it is not obvious why a person skilled in the art would have used the adhesive mass taught by Auguste and the polyisobutylene taught by Chen to improve resistance to deterioration of the absorption capacity of a hydrocolloid adhesive mass after radio sterilization as neither addresses this issue. As there is no motivation in the art to suggest the combination of Auguste and Chen, Auguste fails to render obvious the features of independent claim 15. Furthermore, Chen does not remedy the deficiencies of Auguste.

Claims 16-30, 33 and 35-40 depend either directly or indirectly from claim 15. For the reasons discussed above for claim 15, withdrawal of the rejection is respectfully requested.

Claims 15-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Auguste et al. (US 6,051,748 or WO 98/10801) in view of Chen (US 5,633,010) and further in view of Kubo et al. (US 6,146,654). Applicants respectfully traverse the rejection. This rejection is rendered moot, as claim 34 has been canceled and as claims

App. No. 09/936012  
Office Action Dated October 20, 2004  
Amd. Dated January 14, 2005

16-40 depend either directly or indirectly from claim 15. For the reasons discussed above for claim 15 regarding Auguste, withdrawal of the rejection is respectfully requested. Furthermore, neither Chen nor Kubo remedy the deficiencies of Auguste.

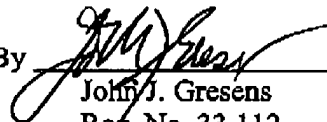
In view of the above, favorable reconsideration in the form of a notice of allowance is requested. Any questions or concerns regarding this communication can be directed to the undersigned attorney, John J. Gresens, Reg. No. 33,112, at (612)371.5265.

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300



Dated: January 14, 2005

By   
John J. Gresens  
Reg. No. 33,112

JJG:smm